



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

September 16, 2009

Mr. Jose Sepulveda, P.E.
Federal Highway Administration
330 West Broadway
Frankfort, Kentucky 40601

Subject: EPA Review Comments on
Final Environmental Impact Statement (FEIS)
I-65 to US 31W Access Improvement Project
Warren County, Kentucky
CEQ No. 20090275

Dear Mr. Sepulveda:

The U.S. Environmental Protection Agency (U.S. EPA) Region 4 reviewed the Final Environmental Impact Statement (FEIS) for the I-65 to US 31W Access Improvement Project in Warren County, Kentucky pursuant to Section 309 of the Clean Air Act, and Section 102 (2)(C) of the National Environmental Policy Act (NEPA). We appreciate your responses to our comments on the DEIS, which were included in this FEIS, and the summary of updated information at the beginning of each chapter. The purpose of this letter is to provide EPA's comments on the FEIS.

The FEIS assesses the potential environmental impacts of the no-build alternative and build alternatives for I-65 access improvement. The FEIS describes the process for Alternative 6 Orange (3.8 miles) being selected as the Preferred Alternative. Improving access to US 31W and I-65 are concerns, along with alleviating traffic congestion and improving safety. The FEIS states that this alternative would serve traffic needs better than the other alternatives, and will have less environmental impacts.

Based on EPA's review of the FEIS, environmental concerns exist. Impacts to groundwater, surface water and karst features, traffic noise and secondary and cumulative impacts will need to be addressed as the project progresses. In particular, groundwater in karst areas is susceptible to contamination from construction and operation runoff, as well as runoff from vehicle spills. Ground water quality impacts to the area's karst hydrology could potentially result from the construction and operation of I-65.

The FEIS states that nine sinkhole ponds associated with the Preferred Alternative will be provisionally considered to be subject to Sections 404/401 jurisdiction, pending the US Army Corps of Engineers (USACE) official determination during the design phase of the project. If it is

determined that there would be impacts to jurisdictional wetlands, impacts should be avoided and minimized to the extent feasible. Mitigation measures for unavoidable impacts would need to be identified during the permitting process.

Where subsurface injection cannot be avoided, authorization from the EPA must be obtained before injection takes place. Emplacement of fluids to the subsurface through wells, modified sinkholes, etc. is regulated by the EPA Underground Injection Control Program. Kentucky does not have primacy for the UIC program. Therefore, the EPA directly implements the UIC program in Kentucky.

A NPDES General Stormwater Permit from KDOW is necessary, since the construction site would be greater than one acre. EPA encourages the continued collaborative efforts of the KYTC, the Kentucky Geological Survey, the Kentucky Department for Environmental Protection, and the city of Bowling Green to protect water resources.

Concerning noise, the FEIS states a commitment to consider vegetative screening as a context sensitive measure for noise impacts. Indirect and cumulative impacts due to land use changes may affect wildlife habitats, farmland, and water resources.

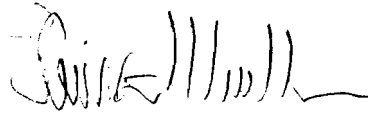
We are aware of the ongoing discussions between EPA Headquarters and the FHWA regarding approaches to evaluating Mobile Source Air Toxics (MSATs). The FEIS describes current MSATs analyses data and available technology. The FEIS includes language that the Federal Highway Administration places in many of its NEPA documents, suggesting that the tools and techniques for comparing the impacts of various alternatives with respect to air toxics are not adequate. This has been a point of disagreement between the FHWA and EPA for some time. We would like to reassure the FHWA that it is technically possible to carry out the analyses necessary to compare alternatives at the local project level. EPA recommends that alternatives being considered under the NEPA process can and should be properly compared using their potential impacts related to Mobile Source Air Toxics as one of the measures for comparison.

We also note the inclusion of information regarding carbon dioxide and other Green House Gases (GHG) emissions in the FEIS. We note your comment in the FEIS that FHWA will review and update their approach to climate change as more information emerges and as policies and legal requirements evolve. The approach to MSATs analyses should also be reviewed and updated in the future, as information, policies and legal requirements evolve.

Indirect adverse effects on two historic sites from land use changes partly induced by the proposed project are addressed in a Memorandum of Agreement (MOA), which is included in the Appendices of this FEIS. The Preferred Alternative would result in indirect adverse effects. The MOA describes planned mitigation measures for indirect impacts to archaeological resources within the project right-of-way.

Thank you for the opportunity to comment on this project, and your continuing coordination with EPA. Please send us a copy of the Record of Decision (ROD) when it becomes available. If we may be of further assistance, contact Ramona McConney of my staff at (404) 562-9615.

Sincerely,

A handwritten signature in black ink, appearing to read "Heinz J. Mueller", with a stylized flourish at the end.

Heinz J. Mueller, Chief
NEPA Program Office

cc: Mr. David Waldner, P.E., Kentucky Transportation Cabinet